probable attack in the course of his wrongdoing, but because his wrong was a provocation of the attack upon him.

GREAT ENGLISH JUDGES. — LORD CHANCELLORS. — "The golden period of equity" is the phrase often used in describing the years from 1737 to 1756, when Philip Yorke, Lord Hardwicke, was the presiding genius in the Court of Chancery. He disposed of the many causes which came before him with a rapidity and accuracy which gave wide satisfaction, and in so doing laid down general principles which "perfected English equity into a symmetrical system." Lord Hardwicke's manner in court approached the ideal. A patient, eager listener, willing to be instructed by counsel, and giving his undivided attention to the argument, he made up his mind only after hearing both sides, and expressed his opinions in carefully prepared written judgments. A pure and fearless judge, he had a sincere passion to advance the science of law. As a man, Lord Hardwicke is scarcely so much to be admired. Determined to get on in the world, from early youth he was relentlessly successful. No failures and no follies mark his steady advance along the path to the Woolsack through the positions of Solicitor General, Attorney General, and Chief Justice of the King's Bench. He seems to have resolutely shut out from his life all which could not aid his ambition. Avaricious, arrogant in society, he forgot his own humble birth, he forgot old friends who had helped him, and sought and cared only for the rich and the great. In politics Hardwicke was a Whig, and was almost as able as a statesman as he was splendid as a judge. During Newcastle's ministry he was virtually the head of the nation. Lord Hardwicke was strikingly handsome, and to his personal attractiveness much of his early success was due.

A small, well-featured man, sitting on the bench with an air of dignified repose which did not betray that he was paying little attention to the rambling and unchecked arguments of the counsel before him; patiently amusing himself with his private correspondence till the causes of the day were over, then taking all the papers involved to be considered at his leisure; finally, having been at greatest pains and labor to reach a decision in each case, delivering, often years after the cause was first heard, judgments which were generally spoken without the aid of a single note; — such was perhaps the most famous of Chancellors, John Scott, Lord Eldon. With the exception of the year 1806, he presided in Chancery from 1801 to 1827. His prevailing characteristics as a judge were a sincere desire to do justice between man and man and an almost exaggerated fear of erring either as to law or facts. Although, combined with his naturally dilatory habits, these attributes made the delays in Chancery matter of common reproach and ridicule, they resulted in an almost unbroken line of fair and correct decisions. Lord Eldon's private life was not lacking in romantic incident. He came from a poor and humble family, narrowly escaped first the career of a coal-fitter, and later that of a country parson; he eloped with his wife in genuine story-book fashion, taking her from her second story window by means of a ladder one dark night; and he finally became a master of English law by hard and unremitting study. Eldon was, however, versed only in law. He knew nothing of general literature, had no imagination or artistic sense, and when not attending to state or judicial business preferred the society of his inferiors to that of men and women of wit and understanding. As a

statesman he was distinguished for his bitter hatred of the Catholics and his violent opposition to every species of reform.

For a brief period in 1868, and again from 1874 to 1880, the head of the English judicial system was Hugh McCalmont Cairns, Lord Cairns. He is considered by many to have been the ablest lawyer of his time. He was not, however, deeply versed in black-letter learning, like Willes and Blackburn, but was distinguished rather for his exhaustive discussion of a matter on principle. His great attribute was lucidity. Probably no other judge of any time has possessed a power of clear statement equal to that of Lord Cairns. One of his biographers has described his appearance in court to be "cold, impersonal, like an intellectual machine minting law." Though born in Ireland, Lord Cairns was of a Scotch family, and was through life an ardent evangelical churchman. His great piety is said to have been something of a jest among members of the bar, and to have been traded upon by the unscrupulous, like the vice of another man. He was almost as great a statesman as a judge, and he was influential in passing the Judicature Acts. He took his recreation in the hunting field on Saturdays and in shooting on the moors of Scotland in the vacation. His great career is the more remarkable in view of the fact that he had to struggle continually with physical weakness and illness, and to take constant precautions in order to be fit for any work.

RECENT CASES.

AGENCY — WARRANTY OF AUTHORITY — PUBLIC OFFICERS. — Defendant, a public officer, acting in excess of his authority, employed plaintiff on behalf of the Crown for three years. Plaintiff was discharged within that time, and brought action against defendant. *Held*, that the doctrine that an agent who makes a contract for his principal impliedly warrants his authority does not apply to a public servant acting on behalf of the Crown. *Dunn* v. *Macdonald*, [1897] 1 Q. B. 401.

This limitation of the doctrine of *Collen* v. *Wright*, 8 E. & B. 647, is based on the rule of policy laid down in *Macbeath* v. *Haldimand*, 1 T. R. 172, and *Gidley* v. *Lord Palmerston*, 3 B. & B. 275, to the effect that an action will not lie against a public servant for any liability contracted in the course of his public employment. The principal case pushes that rule as far perhaps as would be advisable. It may, however, be justified by the danger of deterring responsible persons from entering the public service, if an honest mistake in interpreting their powers is likely to result in their being personally liable on contracts made for the government.

BILLS AND NOTES — CHECK AN EQUITABLE ASSIGNMENT. — The president of the K. Bank in Philadelphia requested a loan of $25,000 from the plaintiff bank of the same city, representing that the K. Bank owed a large balance at the clearing-house, but had a credit of $27,000 with its New York correspondent, and offering to give a check thereon for the amount of the loan. Relying upon these representations, the plaintiff bank advanced the money, and received the check. The K. Bank failed the next day. *Held*, an equitable assignment of the fund on deposit with the New York correspondent was created, so that the plaintiff bank could claim the amount of the check as against the receiver of the drawer. Gray, Brewer, and Peckham, JJ., dissenting. *Fourth Street Nat. Bank* v. *Yardley*, 17 Sup. Ct. Rep. 439.

The court, while distinctly recognizing that a check does not constitute an equitable assignment of the drawer's funds in the hands of the drawee, (see 10 HARVARD LAW REVIEW, 523,) makes an exception in the principal case on the ground that the transaction was not within the ordinary course of business, and the circumstances implied an actual intent to create an assignment. It may be doubted if such an implication could be properly drawn from the facts. Even if the facts warranted the finding of an implied assignment, the action would lie; not on the check, for a check, being a general order to pay money, cannot be construed as an assignment of a particular fund: